



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

PHILLIP ROBINSON,
Plaintiff,

vs.

M. CHAPLAIN,
Defendant.

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§ CIVIL ACTION NO. 0:09-2333-HFF-PJG
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ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the Complaint be dismissed without prejudice and without issuance and service of process. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 24, 2009, and the Clerk of Court entered Plaintiff's objections to the Report on October 9, 2009.

Plaintiff's Objections do little more than restate his original complaint that Defendant Chaplain randomly stopped Plaintiff in the "pill line" and called him a fraud. He fails to specifically object to any portion of the Magistrate Judge's Report. Thus, for the reasons set forth in the Report, Plaintiff's Complaint is subject to summary dismissal. *See Thomas v. Arn*, 474 U.S. 140, 147-48 (1985) (requiring specific objections to a magistrate judge's report to enable district court judges to focus on disputed issues and to prevent "sandbagging" of district judges by litigants who fail to object and then appeal).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff's objections, finding them to be without merit, adopts the Report and incorporates it herein. Therefore, it is the judgment of this Court that the Complaint be **DISMISSED** *without prejudice* and without issuance and service of process.

IT IS SO ORDERED.

Signed this 13th day of October, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within 30 days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.